



ATTENTION

Probate cases on this calendar are currently under review by the probate examiners. Review of some probate cases may not be completed and therefore have not been posted.

If your probate case has not been posted please check back again later.

Thank you for your patience.

Petitioner Garza, Angie (pro per – paternal aunt)

Objector Ramirez, Valerie (Pro Per – Mother)

Objector Flores, Christopher (Pro Per – Father)

Petition for Appointment of Guardian of the Person

Zoey, 3		<u>TEMPORARY EXPIRES 04/11/2016</u>		NEEDS/PROBLEMS/COMMENTS:	
				Minute Order of 02/29/2016: Valarie Ramirez and Christopher Flores each represent that they received the paperwork and do not need additional time to respond. Angie Garza represents that she received the objections 3-4 days ago. The current orders for supervised visitation for both parents on Saturdays from 11am-1pm remain, but the visits are moved to the McDonalds at Chestnut and McKinley.	
Cont. from 022916				1. Need proof of service fifteen (15) days prior to the hearing of the Notice of Hearing along with a copy of the Petition for Appointment of Guardian or consent and waiver of notice or declaration of due diligence for: <ul style="list-style-type: none"> Jesus Flores (Paternal Grandfather) Trinny Flores (Paternal Grandmother) 	
	Aff.Sub.Wit.				
✓	Verified			2. It is unclear if the following persons, Trinny Flores, Jesus G. Flores and Christopher J. Flores were actually noticed properly as the Notice of Hearing filed 02/26/2016 lists several different dates and times with the "1 st attempt, 2 nd attempt, and 3 rd attempt" along the top of the date and time service was made portion of the proof of service. Need clarification.	
	Inventory				
	PTC			Reviewed by: LV	
	Not.Cred.				
✓	Notice of Hrg			Reviewed on: 04/06/2016	
✓	Aff.Mail	w/			
	Aff.Pub.			Updates:	
	Sp.Ntc.				
✓	Pers.Serv.	w/		Recommendation:	
✓	Conf. Screen				
✓	Letters			File 3- Ramirez & Flores	
✓	Duties/Supp				
	Objections				
	Video Receipt				
✓	CI Report				
	9202				
✓	Order				
	Aff. Posting				
	Status Rpt				
✓	UCCJEA				
	Citation				
	FTB Notice				

Second Account Current, Report of Conservator and Petition for Its Settlement, for Allowance of Attorneys' Fees and Costs, and for Approval to Waive Future Accountings

		<p>LISA MEGERDICHIAN, Sister and Conservator with bond of \$115,000.00, is Petitioner.</p> <p>Account period: 1/1/14 – 12/31/15</p> <p>Exhibit A – Conservatorship Estate Accounting: \$211,367.69 Beginning POH: \$128,782.53 Ending POH: \$ 2,260.11 (cash)</p> <p>Exhibit B – EDD Debit Card Accounting: \$386.97 Beginning POH: \$386.97 Ending POH: \$ 0.00</p> <p>Petitioner states this account was set up by the Employment Development Department for the sole purpose of depositing EDD checks subject to withdrawal by debit only. Those benefits ended 12/13/13. The debit card was in the possession of and used solely by the Conservatee, but was monitored by Petitioner for appropriateness of expenditures. The account was closed 2/10/14 with the remaining balance transferred to the conservatorship account.</p> <p>Exhibit C – Green Dot Debit Card Accounting: \$23,779.10 Beginning POH: \$ 0.00 Ending POH: \$ 781.40 (\$280.40 cash plus TV)</p> <p>Petitioner states this account was set of by Petitioner for the benefit of the Conservatee. The debit card was in the possession of and used solely by the Conservatee, but was monitored by Petitioner for appropriateness of expenditures. The Conservatee uses the card primarily for food, fuel to those who transport him, cigarettes, clothing, copays, toiletries, and supplies. Petitioner believes that providing the Conservatee with access to these funds allows him a degree of independence that he has requested and desires.</p> <p>Exhibit D – V&T Real Estate (Rental) Ledger only, no accounting provided. V&T Real Estate managed the rental of the real property owned 50% by the Conservatee and 50% by his parents, which sold on 2/18/15. The rent income was not sufficient to cover the remaining balance due V&T Real Estate from the conservatorship estate in the amount of \$11,852.54.</p> <p style="text-align: center;"><u>SEE ADDITIONAL PAGES</u></p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>SEE ADDITIONAL PAGES</u></p>																																																																			
<table border="1"> <tr><td></td><td>Aff.Sub.Wit.</td><td></td></tr> <tr><td>✓</td><td>Verified</td><td></td></tr> <tr><td></td><td>Inventory</td><td></td></tr> <tr><td></td><td>PTC</td><td></td></tr> <tr><td></td><td>Not.Cred.</td><td></td></tr> <tr><td>✓</td><td>Notice of Hrg</td><td></td></tr> <tr><td>✓</td><td>Aff.Mail</td><td>W</td></tr> <tr><td></td><td>Aff.Pub.</td><td></td></tr> <tr><td></td><td>Sp.Ntc.</td><td></td></tr> <tr><td></td><td>Pers.Serv.</td><td></td></tr> <tr><td></td><td>Conf. Screen</td><td></td></tr> <tr><td></td><td>Letters</td><td></td></tr> <tr><td></td><td>Duties/Supp</td><td></td></tr> <tr><td></td><td>Objections</td><td></td></tr> <tr><td></td><td>Video Receipt</td><td></td></tr> <tr><td>✓</td><td>CI Report</td><td></td></tr> <tr><td>✓</td><td>2620(c)</td><td></td></tr> <tr><td>✓</td><td>Order</td><td></td></tr> <tr><td></td><td>Aff. Posting</td><td></td></tr> <tr><td></td><td>Status Rpt</td><td></td></tr> <tr><td></td><td>UCCJEA</td><td></td></tr> <tr><td></td><td>Citation</td><td></td></tr> <tr><td></td><td>FTB Notice</td><td></td></tr> </table>					Aff.Sub.Wit.		✓	Verified			Inventory			PTC			Not.Cred.		✓	Notice of Hrg		✓	Aff.Mail	W		Aff.Pub.			Sp.Ntc.			Pers.Serv.			Conf. Screen			Letters			Duties/Supp			Objections			Video Receipt		✓	CI Report		✓	2620(c)		✓	Order			Aff. Posting			Status Rpt			UCCJEA			Citation		
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		<p>Reviewed by: skc</p> <p>Reviewed on: 4/6/16</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 4- Assodourian</p>																																																																				

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Explanation of unusual items:

Health insurance policies: The Conservatee qualified for Medi-Cal in September 2014. At that time, his daily caregiver started receiving monthly payments from IHSS and it was not necessary to continue to pay the caregiver from the conservatee's account once the Conservatee qualified for Medi-Cal.

The Conservatee qualified for Medicare on 5/1/15, at which time Petitioner no longer had to pay the Kaiser premium. Due to the amount of Social Security Disability the Conservatee was receiving, and the fact that he no longer had to pay for health insurance, it was necessary to spend down his income to continue to qualify for Medi-Cal. A Medi-Cal advisor advised that the only way to "spend down" the conservatee's income is with health, dental or vision insurance. The advisor recommended that Petitioner obtain additional dental and vision coverage for the Conservatee to meet the requirement. Petitioner did so, and picked up dental and vision plans through Security Life Advantage and Anthem Blue Cross, in addition to the Morgan & White insurance already in place.

Food and fuel: The Conservatee lives with his elderly parents, who are unable to help with meals. Therefore, the Conservatee goes out every day with his caregiver to eat at various restaurants. He enjoys getting out of the house and has favorite places, but also likes to try new places. He enjoys eating. His caregiver will also drive him to the mall, stores, and parks where he does his walking exercises. Sometimes his uncle will drive him places. The Conservatee is appreciative of the use of their vehicles and will pay for their gas every once in a while for his share of the expense. The Conservatee also purchases grocery items at Save Mart and Target for snacks, breakfast, and weekend food.

Fraud on Green Dot Debit Card Account: Petitioner discovered fraudulent items on this account in August 2015 and put a stop on the card and resolved the issue with Green Dot. A new card was then issued.

Cigarettes: The Conservatee has been smoking since his youth. After the accident he was unable to smoke, but recently took up the habit again in the last two years. When his mom became ill, it scared him, and he made a decision to stop smoking at Thanksgiving 2015. There are no cigarette purchases after that date.

Lottery tickets: The Conservatee is obsessed with money and prefers to have cash in hand rather than the debit card. He dreams of becoming a millionaire and enjoys purchasing lottery tickets, which can only be purchased using cash. Petitioner does provide him \$20 cash per week to purchase lottery tickets, but monitors and regulates the amount of purchases.

Sale of real property/Liability: The Court confirmed the sale of the real property for a total of \$310,000.00, of which the Conservatee had a one-half interest (\$155,000.00). The proceeds paid escrow charges and commission, mortgage, and a portion of the note secured by deed of trust payable to John and Teresa Assadourian by the Conservatee. There were no monies left after the above debt and expenses. John and Teresa Assadourian agreed to forgive the remaining balance of principal and interest due from the conservatorship estate in the amount of \$90,995.79 if the conservatorship would pay the \$11,852.54 owed to V&T Real Estate for their management of the real property. It was believed to be to the benefit of the conservatorship estate, so Petitioner agreed. That debt is currently a liability of the conservatorship estate.

SEE ADDITIONAL PAGES

Conservator waives compensation for this account period.

Attorney: \$14,476.00 (\$13,145.00 plus \$1,331.00 in costs)

For 22.9 attorney hours @ \$250-270/hr and 52.8 paralegal hours @ \$135-145/hr, itemized at Exhibit B of Declaration filed 2/26/16. Legal services from 1/1/14-12/31/15 in connection with the first account, sale of the real property, and this second account.

Payment of attorney fees and V&T liability: Because the conservatorship estate has insufficient assets, Petitioner and her attorney are aware of a personal injury settlement pertaining to the conservatee's accident being negotiated on the conservatee's behalf. Attorney Warren Paboojian is representing Petitioner as Guardian ad Litem in that matter. It is anticipated that the settlement will provide sufficient funds to pay the above attorney's fees and conservatee's debts. The remaining balance could be deposited to a special needs trust established for the benefit of the Conservatee or deposited directly to the conservatee's account. The best course of action is still being determined. Based on information and belief, it is believed the net balance of the settlement will be approx. \$176,000.00.

Current Bond: \$115,000.00 (sufficient)

Petitioner requests the Court waive future accountings due to the fact that the estate is less than \$15,000.00 and satisfies the requirements of Probate Code §2628(a).

Petitioner prays for an order that:

1. Notice of hearing of this account, report and petition be given as required by law;
2. The Second Account Current and Report of Conservator be settled, allowed and approved as filed, and all acts and transactions of Petitioner be ratified, approved and confirmed;
3. Petitioner be authorized and directed to pay to the law firm of Dowling Aaron Incorporated attorney's fees of \$13,145.00 and costs of \$1,331.00 as full satisfaction for legal services rendered during this account period;
4. Petitioner need not present future accounts as long as the total net value of the estate is less than \$15,000.00, the monthly income of the estate exclusive of public benefit payments is less than \$2,000.00, and all income, if not retained, is spent for the benefit of the Conservatee; and
5. Such further orders be made as the Court deems proper.

SEE ADDITIONAL PAGES

Page 4 – NEEDS/PROBLEMS/COMMENTS:

Note: There appears to be a discrepancy in the file as to the spelling of the Conservatee's last name. The documents that established this Court file indicated "Assodourian;" however, recently filed documents, including this petition, indicate "Assadourian." Need clarification.

1. Petitioner requests to waive future accountings; however, Petitioner states the Conservatee is expected to receive a settlement of approx. \$176,000.00 in the future, and it has not yet been determined whether such settlement will be paid to the conservatorship estate. The Court may require clarification and further information regarding the anticipated settlement. Is there a civil matter being litigated in Fresno or elsewhere?
2. The Court may require clarification regarding the additional dental and vision plans purchased to "spend down" the conservatee's assets. The Conservatee already had dental and vision insurance through Morgan & White, which was \$190/month at the beginning of the account period, and then appears to have increased to \$434.69/month in July 2015. Petitioner states additional separate dental and vision plans were then purchased on the advice of a Medi-Cal advisor, and the accounting reflects additional monthly payments to Anthem in the amount of \$46.80/month, and Security Life in the amount of \$80.89/month, in addition to the Morgan & White insurance, which was maintained. So at the close of this account period, \$562.38 was being paid on a monthly basis for multiple dental and vision plans. Other than the "spend down," did the Conservatee benefit from having multiple, apparently duplicate supplemental insurance plans?

6 Rafaela Perez Sambrano (Estate) Case No. 14CEPR00640

Attorney Kharazi, H. Ty (for Lorenzo Perez Sambrano –Petitioner – Administrator)

First and Final Account, Report of Administrator, and Petition for Final Distribution

		NEEDS/PROBLEMS/COMMENTS: <u>Continued to 06/20/2016</u> per Attorney request
Cont. from		
Aff.Sub.Wit.		
Verified		
Inventory		
PTC		
Not.Cred.		
Notice of Hrg		
Aff.Mail		
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		
		Reviewed by: LV
		Reviewed on: 04/06/2016
		Updates:
		Recommendation:
		File 6- Sambrano

Petition for Final Distribution, Waiver of Accounting, and for Allowance of Attorneys' Fees

DOD: 9/6/14		LAURIE SUTHERLAND and JO ANN SUTHERLAND , Co-Administrators with Full IAEA without bond, are Petitioners. Petitioners are the sole heirs and waive accounting. I&A: \$253,071.00 POH: \$126,647.18 (cash) Co-Administrators (Statutory): Waived Attorney: \$4,000.00 (less than statutory) Distribution pursuant to intestate succession: Laurie Sutherland: \$61,323.59 Jo Ann Sutherland: \$61,323.59	NEEDS/PROBLEMS/COMMENTS: 1. Petitioners made a preliminary distribution of the funds in the Wells Fargo Advisors account (\$130,971.00), to themselves without Court authorization. See Probate Code §§ 10520, 11620.	
	Aff.Sub.Wit.			
✓	Verified			
✓	Inventory			
✓	PTC			
✓	Not.Cred.			
✓	Notice of Hrg			
✓	Aff.Mail			w
	Aff.Pub.			
	Sp.Ntc.			
	Pers.Serv.			
	Conf. Screen			
✓	Letters			12/9/14
	Duties/Supp			
	Objections			
	Video Receipt			
	CI Report			
✓	9202			
✓	Order			
	Aff. Posting			
	Status Rpt			
	UCCJEA			
	Citation			
✓	FTB Notice			
			Reviewed by: skc	
			Reviewed on: 4/6/16	
			Updates:	
			Recommendation:	
			File 8- Sutherland	

First and Final Account and Report of Administrator and Petition for Its Settlement, for Confirmation and Approval of Acts of Representative, for Allowance of Compensation to Personal Representative and Attorney for Ordinary and Extraordinary Services; and for Final Distribution

DOD: 4/29/88		<p>EVELYN S. DICKENS, Administrator with Full IAEA with bond of \$60,000.00, is Petitioner.</p> <p>Account period: 5/4/15 – 2/19/16</p> <p>Accounting: \$50,000.00</p> <p>Beginning POH: \$12,500.00</p> <p>Ending POH: \$22,470.10 (cash)</p> <p>Administrator (Statutory): \$2,000.00 (See #1)</p> <p>Administrator (Extraordinary): \$1,800.00 (for 60 hours @ \$30/hr for work in connection with the clean-up of the real property)</p> <p>Attorney (Statutory): \$2,000.00 (See #1)</p> <p>Attorney (Extraordinary): \$2,120.00 (for 11.5 hours @ \$200/hr in connection with locating the numerous beneficiaries and sale of the real property)</p> <p>Costs: \$200.26 (photocopies, postage – more than 10 entitled to notice)</p> <p>Closing: \$500.04</p> <p>Petitioner states \$2,100.00 was paid to George Dickens, Petitioner's husband, who was hired to help clean up and repair the real property including electrical, plumbing, and handyman work. George is retired from Cloverdale Unified School District where he performed maintenance for over 20 years including electrical, plumbing, carpentry, locksmith, yardwork, and other misc. work. Prior to that he was an electrician for 30 years. George put in over 60 hours at a rate of \$35/hr. The property was in such a state of disrepair that it would have been difficult to get anyone else to clean it up without charging more. See itemization at Attachment 2.</p> <p>Petitioner states the real property valued at \$12,500.00 was sold for \$40,000.00 for a gain of \$27,500.00.</p> <p style="text-align: center;"><u>SEE PAGE 2</u></p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p style="text-align: center;"><u>SEE PAGE 3</u></p>	
	Aff.Sub.Wit.			
✓	Verified			
✓	Inventory			
✓	PTC			
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✓	Notice of Hrg			
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	Aff.Pub.			
	Sp.Ntc.			
	Pers.Serv.			
	Conf. Screen			
✓	Letters			5/4/15
	Duties/Supp			
	Objections			
	Video Receipt			
	CI Report			
✓	9202			
✓	Order			
	Aff. Posting			
	Status Rpt			
	UCCJEA			
	Citation			
✓	FTB Notice			

Reviewed by: skc
Reviewed on: 4/6/16
Updates:
Recommendation:
File 10- Anderson

Page 2

Petitioner states she obtained a low-interest loan in the amount of \$10,000.00 from Chase Bank in order to pay for expenses incurred in order to probate the estate and prepare the property for sale. Petitioner was not in a position to finance the probate costs and property cleanup and repair and the loan made it possible to liquidate the property for maximum value.

Petitioner states no creditor's claims have been filed with the court.

Distribution pursuant to intestate succession and Probate Code §13100 is as follows:

Living children of Decedent:

- Lillian Elizabeth Pierce: \$2,769.97 (20%)
- Shirley M. Driskill: \$2,769.97 (20%)

Heirs of Woodie Wilson, post-deceased daughter, per §13100:

- Annette M. Magouals: \$692.49 (5%)
- Inez Claudette Tenter: \$692.49 (5%)
- Mervyn Lee Wilson: \$692.49 (5%)
- Evelyn Sue Dickens: \$692.49 (5%)

Issue of Marion Anderson, pre-deceased son:

- Renee Lynn Anderson Eddy: \$553.99 (4%)
- Heir of Ralene Suzette Anderson: Kelli Marie Daniels: \$553.99 (4%) (per §13100)
- Teri L. Anderson Camara: \$553.99 (4%)
- Timothy A. Anderson: \$553.99 (4%) (payable to Fresno County Treasury pursuant to Probate Code §11850)
- Heirs of Trinia Anderson Van Arsdale, post-deceased granddaughter of Decedent, per §13100:
 - Christopher Van Arsdale (Trinia's husband): \$184.66 (1.34%)
 - Jeffrey Van Arsdale (Trinia's minor son): \$184.66 (1.34%) (payable to Christopher Van Arsdale to hold in trust for minor under CUTMA)
 - Patricia Van Arsdale (Trinia's adult daughter): \$184.66 (1.34%)

Heirs of Travis Anderson, post-deceased son, per §13100:

- Cindy Anderson (Travis' daughter): \$923.32 (6.66%)
- Michael Anderson (Travis' son): \$923.32 (6.66%)
- Mark Anderson (Travis' son): \$923.32 (6.66%)

Page 3 – NEEDS/PROBLEMS/COMMENTS:

1. Statutory compensation for Administrator and Attorney should be \$1,600.00 on a fee base of \$40,000.00, not \$2,000.00 on a fee base of \$50,000.00. The \$10,000.00 loan obtained for estate expenses, which was repaid with interest, should not be included as a “receipt” in calculating statutory compensation. Therefore, need recalculation of distributions to heirs.
2. Petitioner states at Paragraph 23 that no creditor’s claims have been filed with the court; however, it appears a Creditor’s Claim was filed on 7/16/15 by Lillian Pierce in the amount of \$1,512.40. Therefore, need Allowance or Rejection of Creditor’s Claim pursuant to Probate Code §9250. Note: If rejected, continuance will be necessary to allow the creditor at least 90 days to act on the rejected claim. If allowed, need proof of payment and recalculation of distribution to heirs.
3. The above-referenced creditor’s claim of Lillian Pierce appears to reference attorney fees paid to Attorney Krause (billing statements attached) in connection with an “Anderson Estate” for work performed in 2012 and 2013 (prior to establishment of this estate by Evelyn Dickens). Court authorization is required for payment of attorney compensation in estates pursuant to Probate Code §10810 and other applicable law, and statutory compensation is requested to be paid accordingly in this estate. However, it is unclear if the “Anderson Estate” referred to in the billing statements is for this decedent or some other deceased relative. Need clarification.
4. Need Declarations pursuant to Probate Code §13100 from the following heirs:
 - Annette M. Magouals
 - Inez Claudette Tenter
 - Mervyn Lee Wilson
 - Evelyn Sue Dickens
 - Kelli Marie Daniels
 - Christopher Van Arsdale
 - Christopher Van Arsdale, on behalf of minor Jeffrey Van Arsdale
 - Patricia Van Arsdale
 - Cindy Anderson
 - Michael Anderson
 - Mark Anderson
5. Need revised order per above.

Petitioner
Attorney

Ferguson, Anita Marie (Pro Per – Fiancée – Petitioner)
Petty-Jones, Teresa (for Objector Anne Todd-Cortez)

Petition for Probate of Will and for Letters Testamentary; Authorization to Administer Under IAEA

DOD: 7/25/14		SPECIAL ADMINISTRATION EXPIRED 1/28/16 (Letters never issued)	NEEDS/PROBLEMS/COMMENTS:
			<p>Minute Order 2/29/16: The Court indicates that it is inclined to not grant the petition due to the misrepresentations that have been made, but grants one continuance in order for Petitioner to amend the petition. The Court indicates that it is considering appointing the Public Administrator. The Letters of Special Administration are not renewed; Anita Ferguson is ordered to not take any action of any kind with regard to this estate.</p>
<p>Cont from 050715, 061815, 081315, 092415, 102215, 120315, 012816, 022916</p>		<p>ANITA MARIE FERGUSON, named executor with bond of \$39,000.00 (bond filed 11/25/15), is Petitioner.</p>	
		Full IAEA – ok	<p>Note: Two issues that were previously noted have been cured by service of notice of the petition to administer estate on Leeann Fleming (decedent's estranged spouse) and Charles Fleming (decedent's brother). One issue remains noted. See Page 4.</p>
✓	Aff.Sub.Wit.	Will dated 3/14/04	
✓	Verified	(Proofs of Subscribing Witnesses were filed 2/24/16.)	<p>Note: Order Appointing Special Administrator filed 12/16/15 authorizes Anita Marie Ferguson as Special Administrator with bond of \$39,000.00 to appear in and represent the interests of the Estate of Howard Fleming in <i>Anita Ferguson v. MRO Investments, et al.</i>, Fresno Superior Court Case No. 15CECG02501. Court records indicate that trial in that matter is set for 6/5/17.</p>
	Inventory		
	PTC	Residence: Fresno	<p>Note: Although Petitioner did file a bond on 11/25/15 in connection with her Petition for Probate, the bond appears to reflect appointment as Executor with full authority on 10/21/15, which is incorrect as she has not been appointed Executor. The Court may require a separate or more specific bond in order for Letters of Special Administration to issue.</p>
	Not.Cred.	Publication: Fresno Bee	
✓	Notice of Hrg	Estimated value of estate:	<p>SEE ADDITIONAL PAGES</p>
✓	Aff.Mail	Personal property: \$8,000.00	
✓	Aff.Pub.	Real property: \$31,000.00	<p>Reviewed by: skc</p>
	Sp.Ntc.	(\$55,000.00 encumbered for \$24,000.00)	
	Pers.Serv.		<p>Reviewed on: 4/6/16</p>
	Conf. Screen	Probate Referee: Steven Diebert	
✓	Letters	Opposition filed 1/13/15 states at the time of his death, the decedent had two siblings, Anne Todd-Cortez and Charles Fleming, both residents of Fresno County. Also at the time of his death, the decedent was married to Leeann Fleming. Petitioner knew Leeann Fleming as the wife of the decedent. On 4/17/15, the State Registrar – Office of Vital Records issued an Affidavit to Amend Howard Edward Fleming's death certificate correcting item 12 from "divorced" to "married" and further identifying Leeann as surviving spouse.	<p>Updates:</p>
✓	Duties/Supp		
✓	Objections		<p>Recommendation:</p>
	Video Receipt		
	CI Report		<p>File 12 - Flemming</p>
	9202		
✓	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		

SEE ADDITIONAL PAGES

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Objector states on or about 7/26/14, the day after the decedent's death, Linda and Raymond Jackson (Raymond is the brother of the decedent's mother Fayola Fleming) visited Petitioner to see how she was doing. Petitioner told them the decedent had a will that was not properly witnessed and asked Linda if she thought that would be a problem.

At the time of his death, the decedent and Anne held title as joint tenants to real property in Fresno County. A notice of death of joint tenant was filed by Anne with the Fresno County Recorder on 12/10/14. Said property was sold to MRO Investments, Inc., in June 2015. On 6/24/15, MRO filed an unlawful detainer to evict Petitioner from the property. On 8/7/15, Petitioner filed a complaint for quiet title against MRO and Anne. The UD and quiet title actions were consolidated into the quiet title action 15CECG02501.

A Notice of Motion and Motion to Consolidate, or in the Alternative to Stay this probate action has been filed seeking to consolidate this matter with 15CECG02501. *[Examiner's Note: This motion is set for 2/9/16 at 9:00 am in Dept. 303.]*

Objector states the petition and ex parte request for special powers contain intentional misrepresentations to the court regarding the decedent's marital status and heirs. Petitioner has failed to give proper notice to all interested parties. Petitioner told family members the day after his death that the decedent's will was not witnessed, yet the instrument she has filed with the court bears handwriting of at least two people and the signature of three witnesses.

Objector states this matter should be consolidated with the existing consolidated actions under Case No. 15CECG02501 or in the alternative the probate action should be stayed. If the quiet title shows that Petitioner has no interest in the property, this case becomes moot because as Petitioner's pleadings show, without the property the estate is below the jurisdictional threshold.

Objector states this matter should be denied until Petitioner amends her petition to correct intentional misrepresentations and proper notice has been provided by law. Furthermore, any powers given to Petitioner as a representative of the estate should be immediately revoked based upon her intentional misrepresentations made to this court. Moreover, this matter should be consolidated with 15CECG02501 or stayed until after the quiet title action is determined.

Response to Objection filed 1/26/15 by Petitioner Anita Marie Ferguson states Objector does not seek to inherit from her late brother; rather, the purpose is to prevent administration of the estate. Petitioner on her own behalf and on behalf of the estate has filed *Anita Ferguson v. MRO Investments, Inc., et al.*, 15CECG02501 alleging that Anne Todd-Cortez wrongfully transferred title to the real property on South Anna in Fresno and that such wrongful actions caused damage to Petitioner and to the estate. In the response, Objector has interposed two demurrers, the second of which is set for hearing on 3/17/16.

Objector argues that Petitioner lacks standing to pursue any actions on behalf of the estate. That is what this objection is really about. Objector wants to derail this lawsuit and prevent the decedent's estate from recovering its interest in the real property. The Court has circumscribed powers to adjudicate ownership of the real property. See authority cited.

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Petitioner's Response to Objection (Cont'd): Petitioner states one purpose of probate administration is to marshal the assets of the estate. See authority cited. Petitioner seeks to proceed with administration to adjudicate the estate's claim to the real property, which will further the purposes of probate. Accordingly, the objections should be overruled.

Decedent's marital status: To Petitioner's great surprise, the decedent's sister, Objector Anne Todd-Cortez, has asserted that the decedent was still married to Leeann Fleming at the time of his death. Petitioner has assembled pleadings from the 1996 dissolution case involving the decedent and Leeann Fleming and requests judicial notice of same. It appears default was entered against the decedent, which default was set aside by order of Madera County Superior Court, which subsequently transferred the case to Fresno Superior Court. The Court's Odyssey page shows that the divorce was final on 7/11/1997. See attached Judgment at Exhibit B.

Petitioner states when Leeann Fleming purchased her residence on Fremont Avenue in 2001, she took title as "an unmarried woman as her sole and separate property," and the grant deed recorded 12/21/01 reflects the borrower as "Leeann Fleming, an unmarried woman." Thus, the evidence demonstrates that Ms. Fleming held herself out to the world as an unmarried woman. Petitioner believed the divorce was complete.

Further, the decedent's will was made in 2004, after commencement of the divorce action and after Leeann Fleming purchased her residence. Decedent's marital status is not grounds to dismiss this probate proceeding. If the court grants the relief requested by Objector, the estate will never be probated and assets will be lost.

Temporary Letters: In response to the first demurrer Petitioner requested temporary letters of administration. Although a bond has been filed, the court has not yet issued letters of administration.

Petitioner states the Court may wish to continue this matter to allow for notice and/or further briefing. Pending such further hearing, the Court should issue letters, which will address the issue of standing raised in the demurrer.

Petitioner states the will should be admitted to probate. Petitioner concludes that Objector is only interested because it impacts her wrongful attempts to sell real property belonging to the decedent. As alleged in the lawsuit, Objector sold her interest in the real property to the decedent and Petitioner in 2004, and by such sale severed her joint tenancy interest. But Objector never recorded a deed in favor of her brother and Petitioner, instead reserving an undocumented mortgage in the property. After her brother's death, Objector wrongfully recorded an Affidavit of death of joint tenant thereby claiming the property for herself. Now with her hand caught in the proverbial cookie jar, she is attempting to derail the probate to cover up her wrongful acts. The Court should look through the objection and see it for what it really is – an attempt to conceal Anne Todd-Cortez' misappropriation of estate assets. Accordingly, the objection should be overruled and letters of administration (sic) should issue to Petitioner.

SEE ADDITIONAL PAGES

NEEDS/PROBLEMS/COMMENTS:

1. As noted above, although Petitioner did file a bond on 11/25/15 in connection with her Petition for Probate, the bond appears to reflect appointment as Executor with full authority on 10/21/15, which is incorrect as she has not been appointed Executor and the will has not been admitted to probate. The Court may require a separate or more specific bond in order for Letters of Special Administration to issue.

Note: This estate was opened with a fee waiver. Please note that upon distribution, all Court filing fees will be due.

Note: If granted, the Court will set status hearings as follows:

- Monday, May 9, 2016 for proof of corrected bond, if required
- Monday, September 12, 2016 for filing Inventory and Appraisal
- Monday, June 12, 2017 for filing the first account or petition for final distribution.

If the proper items are on file pursuant to Local Rule 7.5, the status hearings may come off calendar.